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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA

10 AARON PALM, on behalf of himself and all  
11 others similarly situated,

12 Plaintiffs,

13 vs.

14 SUR LA TABLE, INC., a Corporation, and  
DOES 1–25

15 Defendants,  
16

Case No. 12-cv-01250-JCS

**[PROPOSED] ORDER GRANTING  
PRELIMINARY APPROVAL OF  
CLASS SETTLEMENT AGREEMENT**

5

Date: August 2, 2013

Time: 9:30 a.m.

Dept.: SF, 15th Fl., Crtrm. G

Judge: Hon. Joseph C. Spero

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18 On August 2, 5 this Court conducted a hearing on Plaintiffs' Motion for Preliminary

19 Approval of Class Action Settlement ("Motion"). Hoyer & Associates appeared on behalf of

20 Plaintiff Aaron Palm. Gibson, Dunn & Crutcher LLP appeared on behalf of Defendant Sur

21 la Table, Inc. The Court has been advised that the parties to this action, through their

22 respective counsel, have agreed to settle this class action upon the terms and conditions

23 set forth in the Motion. Based upon Plaintiff's Motion, its accompanying declarations and

24 exhibits filed therewith, and all other papers and records filed in this action, the Court finds

**[PROPOSED] ORDER GRANTING PRELIMINARY  
APPROVAL OF CLASS SETTLEMENT AGREEMENT**

1 as follows:

- 2 1. The requirements of conditional class certification for the purposes of settlement  
3 have been met.
  - 4 a. The proposed class is so numerous that joinder of all members is  
5 impracticable.
  - 6 b. There are issues of fact and law common to all class members, and such  
7 common issues predominate over individualized issues.
  - 8 c. Plaintiff's claims are typical of the class members he seeks to represent, and  
9 there are no apparent conflicts of interest between Plaintiff and the class.
  - 10 d. Plaintiff is an adequate class representative.
  - 11 e. Plaintiff's counsel is fully qualified to serve as class counsel. Lead counsel for  
12 Plaintiff is an experienced employment and class action litigator. He has  
13 been counsel in a number of complex litigation and class action cases. There  
14 are no apparent conflicts of interest posed by appointment of Plaintiff's  
15 counsel as class counsel.
- 16 2. The proposed Stipulation of Settlement ("Settlement Agreement") appears to be the  
17 product of serious, informed, noncollusive negotiations, has no obvious deficiencies,  
18 does not improperly grant preferential treatment to class representatives or  
19 segments of the class, and falls within the range of possible approval because it  
20 appears to be fair, reasonable, and adequate in all respects.
- 21 3. The proposed method of notice is reasonable and comports with due process  
22 because it apprises Potential Class Members of the pendency and nature of the  
23 action, the terms of settlement, including the nature of the release and the estimated  
24 amount of each individual's award, instructions to opt-out, challenge the basis for the

1 award, or object, and notice of the final approval hearing, among other pertinent  
2 information. The Notice Period is reasonable as it provides sufficient time for  
3 Potential Class Members to opt out, object, or challenge the basis for their estimated  
4 recovery.

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6 **IT IS HEREBY ORDERED** that:

- 7 1. This Court hereby incorporates by reference the definitions in the Settlement  
8 Agreement, and all terms used herein shall have the same meanings as set forth in  
9 that Settlement Agreement.
- 10 2. This Court conditionally certifies a settlement class as defined in the Settlement  
11 Agreement.
- 12 3. This Court preliminarily appoints Plaintiff Aaron Palm as class representative.
- 13 4. This Court preliminarily appoints Richard A. Hoyer, his associate David C. Lipps, and  
14 the law firm of Hoyer & Associates as class counsel.
- 15 5. This Court preliminarily approves the Settlement Agreement.
- 16 6. This Court appoints Rust Consulting, Inc. as Settlement Administrator.
- 17 7. This Court adopts the procedures and timeframes specified in the Settlement  
18 Agreement regarding opting out, objecting, and challenging the basis for an  
19 estimated recovery.
- 20 8. This Court approves, as to form and content, the Class Notice and authorizes the  
21 notice to be prepared and mailed to Potential Class Members in accordance with the  
22 procedures and timeframes specified in the Settlement Agreement.
- 23 9. The Final Approval Hearing shall be held at October 18, 2013 (date) and  
24 1:30 PM (time) in Courtroom G on the 15th floor of this Court to

1       determine whether the Settlement Agreement should be finally approved as fair,  
 2       reasonable, and adequate.

- 3       10. Should the Court grant final approval of the Settlement Agreement, the Court shall  
 4       enter Judgment in accordance with the Settlement Agreement. In which case, all  
 5       Potential Class Members who have not submitted valid and timely exclusion forms  
 6       will be considered part of the Settlement Class and will be barred from asserting any  
 7       Released Claims against Defendant and the affiliated Released Parties.
- 8       11. This Court adopts the following implementation schedule:

Date	Activity
	Date of preliminary approval order
30 days after preliminary approval	Administrator to mail notice
10 days after notice mailed	Administrator to provide notice to counsel for the parties that notice has been mailed
45 days after notice	PCMs to mail opt-out form or objection notice
24 days before final approval hearing	Administrator to provide (1) number of notices mailed and (2) list of all PCMs who submitted timely opt-out forms
14 days before final approval hearing	Plaintiff to file final approval motion
14 days before final approval hearing	Plaintiff to file application for attorneys' fees and costs
10/18/13 at 1:30 PM	Final approval hearing  (Per the Class Action Fairness Act, this must be scheduled after October 13, 2013, 100 days after the filing of the Motion for Preliminary Approval.)
TBD	Final order and judgment
TBD	Effective date
15 days after effective date	SLT to deliver the settlement funds to the Administrator
30 days after	Administrator to distribute payments to the SCMs and any

1 effective date	approved amounts to Class Counsel and Plaintiff
2 135 days after 3 effective date	Administrator to distribute any un-deposited or otherwise remaining funds to the <i>cy pres</i> beneficiary and provide certification of completion of settlement administration to counsel for the parties

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5 Date: 08/05/13  
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IT IS SO ORDERED.

